

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**x**

**GRISELDA BIELINSKI and MARIO PARDO,**

**Plaintiffs,**

**07 Civ. 11636 (SS)**

**-against-**

**ANSWER**

**HOTEL PIERRE,**

**Defendants.**

**x**

Defendant IHMS, LLC d/b/a The Pierre (the "Hotel"), incorrectly named herein as Hotel Pierre, by its attorneys, Kane Kessler, P.C., answers the Complaint as follows:

**INTRODUCTION**

1. Denies the allegations of paragraph 1 of the Complaint to the extent it alleges that the Hotel violated the Age Discrimination in Employment Act and/or Title VII of the Civil Rights Act of 1964, as amended.

**JURISDICTION**

2. Admits the allegations of paragraph 2 that plaintiffs filed a complaint with the United States Equal Employment Opportunity Commission on or about May 10, 2007 and subsequently received a Notice of Right to Sue dated September 18, 2007.

**PARTIES**

3. Admits the allegations of paragraph 3 of the Complaint.

4. Denies the allegation of paragraph 4 of the Complaint that the Hotel is located at 60 West 57<sup>th</sup> Street, New York, N.Y. 10003.

**FACTS RELEVANT TO ALL CLAIMS**

5. Admits the allegations of paragraph 5 of the Complaint.
6. Admits the allegations of paragraph 6 of the Complaint.
7. Admits the allegations of paragraph 7 of the Complaint.
8. Denies the allegations of paragraph 8 of the Complaint, except admits that the Hotel posted an opening for a Banquet Captain position on or about February 13, 2007, that approximately 12 waiters applied and all the applicants were interviewed.
9. Admits the allegations of paragraph 9 of the Complaint.
10. Admits the allegations of paragraph 10 of the Complaint, except affirmatively notes that the name of the Hotel's Director of Human Resources is Yvonne Mancini.
11. Admits the allegations of paragraph 11 of the Complaint.
12. Admits the allegations of paragraph 12 of the Complaint.
13. Admits the allegations of paragraph 13 of the Complaint, except affirmatively notes that the name of the Hotel's Director of Human Resources is Yvonne Mancini.
14. Denies the allegations of paragraph 14 of the Complaint.
15. Defendant repeats and reiterates the answers set forth in paragraphs 1 -14 above into the answers set forth below.

**AS AND FOR A FIRST CAUSE OF ACTION**

16. Denies the allegations of paragraph 16 of the Complaint.

**AS AND FOR A SECOND CAUSE OF ACTION**

17. Denies the allegations of paragraph 17 of the Complaint.

**AS AND FOR A THIRD CAUSE OF ACTION**

18. Denies the allegations of paragraph 18 of the Complaint.

**AS AND FOR A FOURTH CAUSE OF ACTION**

19. Denies the allegations of paragraph 19 of the Complaint..

**DAMAGES**

20. Denies the allegations of paragraph 20 of the Complaint.

21. Denies the allegations of paragraph 21 of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

22. The Complaint fails to state a claim pursuant to the Age Discrimination in Employment Act, as amended.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

23. The Complaint fails to state a claim pursuant to the Civil Rights Act of 1964, as amended.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

24. The Complaint fails to state a claim pursuant to the Age Discrimination in Employment Act, as amended.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

25. The Complaint fails to state a claim pursuant to the New York State Human Rights Law.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

26. The Complaint fails to state a claim pursuant to the New York City Human Rights Law.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

27. Plaintiffs were not selected for the position of Banquet Captain for legitimate, nondiscriminatory business reasons.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

28. The Hotel made the selection for the Banquet Captain position using objective criteria unrelated to age and/or gender.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

29. All applicants for the position of Banquet Captain were evaluated on their responses to identical questions during a series of three (3) interviews with three (3) different Hotel managers.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

30. The Hotel selected the most qualified applicant for the position of Banquet Captain.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

31. Plaintiffs have failed to exhaust their remedies pursuant to a collective bargaining agreement between the New York Hotel Trades Council, AFL-CIO and the Hotel Association of New York City, Inc.

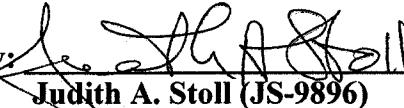
**AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE**

32. The Complaint is barred in whole or in part by the doctrine of laches.

**WHEREFORE**, the Hotel submits that the Complaint should be dismissed in its entirety and the Hotel should be granted such other, further and different relief as to the Court may seem just and proper.

**Dated: New York, N.Y.  
January 24, 2008**

**KANE KESSLER, P.C.  
Attorneys for Defendant  
IHMS, LLC, d/b/a The Pierre**

  
By: Judith A. Stoll (JS-9896)

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**TO: SCHWARTZ, LICHTEN & BRIGHT  
Attn: Arthur Z. Schwartz, Esq.  
Attorneys for Plaintiffs  
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New York, N.Y. 10001  
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Fax: (212) 358-1353**

**AFFIDAVIT OF SERVICE BY REGULAR MAIL**

STATE OF NEW YORK )  
                         ) ss.:  
COUNTY OF NEW YORK )

I, Cara M. Brownell, being duly sworn, say:

I am not a party to the within action, am over 18 years of age, and reside in Brooklyn, New York.

On January 24, 2008, I served the within:

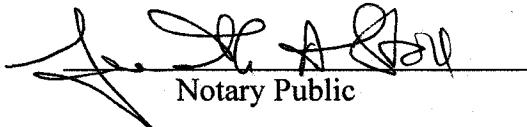
**ANSWER**

by delivering a true copy thereof, enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following:

**TO: SCHWARTZ, LICHTEN & BRIGHT**  
Attn: Arthur Z. Schwartz, Esq.  
**275 Seventh Avenue**  
**New York, N.Y. 10001**

  
Cara M. Brownell  
**CARA M. BROWNELL**

Sworn to before me this  
24<sup>th</sup> day of January, 2008

  
\_\_\_\_\_  
Notary Public

JUDITH A. STOLL  
NOTARY PUBLIC, State of New York  
No. 01ST4655884  
Qualified in New York County  
Commission Expires Dec. 31, 2009

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